

**MINUTES**  
**Montana Fish, Wildlife & Parks Commission Meeting**  
**Helena Headquarters -- 1420 East 6<sup>th</sup> Avenue**  
**Helena, MT 59620**  
**December 11, 2003**

**Commission Members Present:** Dan Walker, Chairman; Tim Mulligan, Vice-Chairman; John Lane; Mike Murphy; John Brenden.

**Fish, Wildlife & Parks Staff:** Jeff Hagener, Director; FWP Department personnel.

**Guests:** Bill Myers, Pointer Scenic Cruises, Fred Sargeson, Montana Interactive; Rich Olsen, Montana Interactive; Rich Bush, ITSD, Michael Green; John Frisch; Neven Zugg; Scott McMillon; Earl Washburn, Gallatin Wildlife Association; Keith VanSetten; Charlie Johnson, Montana Bowhunters' Association; Cathy Campbell; Bill Ovsello; Sue Dalby; John Murnane; Sanford Shrout, MSHA; Roland Deane, MSHA; Mary Ellen Schnur; Dave Kiesling; Thomas Mendyke; Don Young; John Wilson, Montana TU; Robin Cunningham, FOAM.

**Topics of Discussion:**

1. Opening - Pledge of Allegiance
2. Approval of November 13, 2003 Commission Minutes
3. Approval of August 14, 2003 Conference Call Minutes
4. Approval of October 17, 2003 Conference Call Minutes
5. Approval of November 7, 2003 Conference Call Minutes
6. Approval of Commission Expenses through November 30, 2003
7. Approval of 2004 Commission Meeting Schedule
8. Acknowledgement of Awards and Honors
9. Parks Biennial Fee Rule - Final
10. Bushilla Acquisition Adjacent to Lewis & Clark Caverns - Final
11. Thompson Chain of Lakes FAS Camping Fee Implementation - Final
12. Smith River Special Landowner Rule - Final
13. 2004 Deer, Elk, Antelope Seasons / HD Boundaries - Tentative
14. 2004 & 2005 Moose, Sheep, Goat Seasons, Quotas, & HD Boundaries - Tentative
15. 2004 & 2005 Black Bear & Mountain Lion Seasons, Quotas, & HD Boundaries - Tentative
16. 2004 & 2005 Upland Game Bird Seasons-includes Spring & Fall Turkey - Tentative
17. Game Damage Permit Authorizations - Tentative
18. Teton Spring Creek Preserve - Final
- 18.1 Teton Spring Creek Preserve Weapons Restriction Area Presentation
19. 2004 Annual Rule Regarding Prairie Dog Shooting - Tentative
20. Thompson River Co-Gen Project - Final
21. Fishing Access Sites - Informational
22. Proposed Land Use Change at Lewis & Clark FAS - Final
23. Alberton Gorge Land Exchange - Informational
24. Lake Five FAS Acquisition - Tentative
25. Catch and Release Regulation on a Portion of Big Spring Creek - Final
26. River Recreation Policy Update - Informational
27. Public Opportunity to Speak on Issues Not Discussed at this Meeting

**1. Opening - Pledge of Allegiance.** **Chairman Dan Walker** called the meeting to order at 8:04 a.m. and led the Pledge of Allegiance.

**2. Approval of November 13, 2003 Commission Minutes.**

*Action: Lane moved and Murphy seconded the motion to approve the minutes of the November 13, 2003 meeting. Motion carried.*

**3. Approval of August 14, 2003 Conference Call Minutes**

**4. Approval of October 17, 2003 Conference Call Minutes**

**5. Approval of November 7, 2003 Conference Call Minutes**

*Action: Brenden moved and Lane seconded the motion to approve the minutes of the August 14, 2003 Conference Call, of the October 17, 2003 Conference Call, and the November 7, 2003 Conference Call. Motion carried*

**6. Approval of Commission Expenses through November 30, 2003.**

*Action: Lane moved and Murphy seconded the motion to approve the Commission expenses through November 30, 2003 as presented. Motion carried.*

**7. Approval of 2004 Commission Meeting Schedule.** **Brenden** said he would like to assure there is flexibility in the schedule to allow for regional meetings if necessary. **Walker** said this could be accommodated if sufficient notice is given to those involved.

*Action: Murphy moved and Lane seconded the motion to approve the 2004 Commission Meeting Schedule as proposed by the Department. Motion carried.*

**8. Acknowledgement of Awards and Honors.** **Director Hagener** stated that he wished to acknowledge awards and honors earned by employees and the Department.

The Automated Licensing System (ALS) won the "Best of the Web" award, an award offered for innovative information technology projects within three state government online services. **Barney Benkelman, FWP Information Technology Bureau Chief**, stated that this prestigious award is a testament to what can be accomplished through the hard work of a dedicated and committed team. **Benkelman** introduced Dana Glass, CEO of Western Computer Services (WESCO), the local firm involved in the development of the software; Rich Olson and Fred Sargeson of Montana Interactive, Inc. who developed the front-end user software; and Rick Bush of Montana Department of Administration, who developed the hosting infrastructure system. **Benkelman** noted that **Bobbi Rognrud, FWP Programmer/Analyst**, was an integral participant in the design and development of ALS.

Dana Glass stated that he appreciated the opportunity to work with FWP. He said the FWP staff has shown tenacity, and he feels this award is well deserved. He offered his congratulations. Rich Olson said this is a significant award; that there were 250 applicants. He said it is an honor to attain this award and he, too, congratulated the Department.

**Benkelman** gave a brief update on Phase 2 of the ALS project, the segment that will allow for special applications. He stated that it is ahead of schedule at this point, and should be ready for next license year. He added that ALS will soon provide the capability for the public to purchase Conservation Licenses as well.

**Hagener** introduced **Doug Haberman, FWP Region 5 Parks Manager**, who presented a framed print of Chief Plenty Coup, by Leroy Green, bordered by a copy of the original Indian Trust Deed, and the Stewardship Proclamation signed by Carl Venne, Crow Tribe Chairman, John Pretty on Top, Big Horn County Commission Chairman, Dean Frank, Billings Kiwanis President, and FWP Director, Jeff Hagener. FWP assumed responsibility for the care of this park, and as a tribute to its historical significance, an annual Day of Honor is hosted at the Park to commemorate the legacy.

**9. Parks Biennial Fee Rule - Final.** **Doug Monger, FWP Parks Administrator**, stated that the Parks Division had just held their annual meeting. Several awards were presented at that meeting. Howard Boggess was named Outstanding Volunteer of Plenty Coup State Park; Bob Peterson, FWP Region 7 Parks Manager, was named Park Professional of the Year; Doug Smith was honored for his hard work in establishing a parks program; Senator Dale Mahlum for his sponsorship of the license plate legislation; Diane Tipton, FWP Information Officer, for her valuable contributions; and Steve Gilbert, FWP Non-motorized Trails Specialist, was awarded the Lifesaving Award for saving a drowning man. Debbie Cheek, FWP Field Support Supervisor, was awarded the Career Achievement Award for developing the Volunteer and Intern Programs. Debbie is retiring December 12<sup>th</sup>.

**Monger** said the comment period for the proposed tentative Biennial Fee Rule resulted in 12 comments – 7 in support, 2 raising questions, and 3 in opposition because of the concept of the Senate Bill 336. **Monger** stated that vehicles with Montana license plates will be allowed into State Parks free of charge. The Department is also proposing revising the non-resident fee from “per person” to “per vehicle” at a rate of \$5 per vehicle to maintain consistency throughout the state, and to eliminate the additional responsibility of residency determination by FWP staff. **Monger** said Thompson Chain of Lakes will be a separate item from the biennial fee as it is a Fishing Access Site. He said any group larger than 30 needs to obtain a group permit at a fee of \$75. FWP is also proposing to reduce the non-resident passport price from \$30 to \$25.

**Murphy** said the biennial fee rule needs modified relative to commercial use, and he added that it involves more than Wild Horse Island. He said the issue of transporting individuals to parks, to Wild Horse Island, specifically, has been ongoing and needs to be dealt with.

#### Discussion on Commercial Use and its Pertinence to Wild Horse Island.

The Parks Division presented 4 possible amendments to the Commercial Use Definition (II. Definitions Section D) in the Parks Biennial Fee Rule. The options are as follows:

Option #1 - leave current definition as it is

Option #2 - delete the reference words “or to a” and “shuttle service” in the current definition

Option #3 - clarify that it is not the intention to consider commercial transportation of visitors to land-based sites as commercial use

Option #4 - delete the Commercial Use definition from the Parks Biennial Rule as the intent of the Fee Rule is for non-commercial users of the State Parks and Fishing Access Sites.

**Murphy** said, and **Walker** agreed, that chartering a bus to a State Park is no different than chartering a boat to the Island. **Brenden** concurred, adding the contentious part is the high and low water marks; everyone has access to the low water mark up to the high water mark. **Murphy** suggested Option #2, barring any legal ramifications. He said he doesn't feel the intention has ever been to stop charter vehicles from taking people to state parks. **Murphy** was not in favor of Option #4 as he believes a mechanism needs to be in place from a commercial standpoint.

**Bob Lane, FWP Legal Counsel**, stated the Biennial Rule is a non-commercial fee rule, and he suggested that perhaps this issue should be addressed when the commercial rule comes before the Commission. **Hagener** said there is no commercial use rule, only the Commercial Use Definition in the biennial rule.

**Bob Lane** said this section of the rule is a broad definition of commercial use and it only provides the opportunity for the Commission to regulate whether people can transport clients in a boat or not, it does not specify what can be done on the Island. If this rule is amended, the amendments would remove control over the shuttle service; it would modify a general definition that doesn't regulate WHI. He said the Commission can deal with WHI at a later date and not consider the restriction of shuttle services, or wait until receiving public comment on WHI issues before making decisions.

**Vincent** said the Tribes have expressed concerns with respect to commercial use of WHI. They do not differentiate shuttle services from commercial use. The Region has worked with the Tribes to reach a satisfactory agreement, and should the Commission make a decision today, Vincent feels the Tribes would think a decision was made without their involvement. He proposed deferring the decision until the Flathead Lake Management Plan has been completed.

**Monger** suggested adopting the fee rule as proposed, and then adopt Option #2 as a tentative, which would allow the Department the opportunity to receive public comment specific to WHI and parks affected by commercial use.

**Monger** said when the Commission gave Parks direction to implement a free commercial use process for WHI, it was contingent on concurrence with the Tribes. The Tribes did not concur. Subsequently, the Department has been negotiating with the Tribe, and an agreement is nearly finalized through a Memo of Understanding which addresses shuttle service and commercial use to and within WHI. An action by the Commission at this time would send a negative message to the Tribe. Monger suggested it may be appropriate to put it out as a tentative and allow the Tribes to respond accordingly.

*Action: **Murphy** moved and **Brenden** seconded the motion to approve the Biennial Fee Rule, as proposed by the Department, with the Option 2 amendment to remove the words "or to a" and "shuttle service" from the Commercial Use Definition.*

*Discussion on Motion:* **Monger** said this is a substantive change and will need to go out for public comment, and this timeframe would delay the implementation of the Fee Rule past January 1 when the vehicle registration portion of the rule (S336) goes into effect. **Bob Lane** said it may be best to adopt the proposed biennial fee rule, and then entertain **Murphy's** motion to amend the rule, then advertise for public comment the amended portion of the rule.

*Action on Motion: **Murphy** withdrew his motion.*

Bill Myers, owner of Pointer Scenic Cruises, said this is not about WHI, but about the biennial fee rule. He said the reason the commercial rule portion is appropriate under the biennial fee rule is that he was cited under this rule for shuttling people to the Island. He met with Senator Bob Keenan, who suggested meeting with FWP Director Hagener. On January 13, 2003 he met with Commissioner Murphy, Director Hagener, and two FWP legal staff, after which Hagener generated a memo requesting options be developed. He said any enforcement against him would discriminate a certain kind of user. "With resolution of this language, the Commission would resolve the disagreement with Pointer Scenic Cruises, would provide public access to a state park, and would allow attention to be focused separately on other aspects of WHI."

**Mulligan** proposed Option 4, which would delete the commercial use definition, and then bring it back into the rule at a later date with revised wording.

*Action: **Mulligan** moved and **Murphy** seconded the motion to approve the Biennial Rule as recommended by the Department with the amendment to delete the Commercial Use definition from the Rule (II. Definitions Section D).*

*Discussion on Motion:* **Bob Lane** said this is exactly what he would suggest in terms of public involvement. Myers said he was shocked that the Commission would delete a whole section of the Rule rather than change one or two words as in Option 2. **Brenden** agreed, and said he preferred Murphy's motion.

*Action on Motion: **Murphy** withdrew his second to Mulligans motion.*

**Mulligan** said *Section I. Legal Authority for Rules Section B* still addresses commercialization. He added there are many in the public sector in the Western part of the state, including the Tribes, who will want the opportunity to comment on changes. **Mulligan** said the difference between the two motions is that Murphy's motion would change the wording without public comment, whereas Mulligan's motion would change the Rule, and would allow for public comment on potential wording changes.

**Bob Lane** said these options have not been brought out as part of the Rule. He added that the Tribes asserts jurisdiction over that half of Flathead Lake, and they have federal court decisions supporting that. He said the Department is trying to work with the Tribes to develop one package addressing all issues, and the Tribes may do something on their own if we don't work with them.

**Walker** said this is a fee rule for all Parks, regarding all shuttle services statewide, not just WHI, and the Commission does not have the authority to regulate shuttle services.

*Action: **Murphy** reinstituted his second to **Mulligans** motion to approve the proposed Biennial Fee Rule as recommended by the Department with the amendment to delete the Commercial Use definition from the Rule (II. Definitions Section D) with the understanding that Murphy intends to put forward a motion to facilitate this change in wording.*

*Action on Motion: Motion carried.*

**Murphy** requested entertaining the Thompson Chain of Lakes topic prior to voting on the Biennial Fee Rule as many people who are concerned with fees being charged.

*Action: **Murphy** moved that the Department implement a test pilot program with a coupon to allow individuals who wish to purchase a coupon good for 5 visits to TCL at \$25 over the course of a 2-year test period. Motion withdrawn pending Thompson Chain of Lakes agenda item.*

*Discussion on Motion: **Mulligan** said he was under the assumption that when the Commission talked of TCL on the agenda, any changes made would amend the Biennial Rule that was just approved. **Mulligan** said if in fact we made any changes to this item, it would amend that rule. **Monger** said the intent was to separate TCL from the rest of the fee rule. When TCL is acted on, it would modify the base fee rule package as a whole.*

*Action: **Murphy** withdrew his support to the motion regarding the Biennial Fee Rule motion proposed by Mulligan. Motion still carried but changes the results of the vote to four in favor - one opposed. (Murphy opposed).*

*Action: **Murphy** moved the Department implement a rule-making process to make the amendment to the Biennial Fee Rule that would result in the wording as per Option #2 of the definition of "Commercial Use" striking the words "or to a" and "shuttle service" within that definition.*

*Discussion on Motion: **Monger** clarified that this would become an amendment to the annual fee rule and not Administrative Rules of Montana.*

*Action on Motion: **Mulligan** seconded the motion. Motion carried.*

**10. Bushilla Acquisition Adjacent to Lewis & Clark Caverns - Final.** **Monger** said the Environmental Assessment has been completed on this 8.66 acre acquisition, and he noted that no comments were received during the comment period. The land appraised at \$530 per acre, however, this negotiated proposal of \$8,244 which come to \$950 per acre, is based on a land sale immediately adjacent to this land, and provides incentive for the Bushilla's to sell. **Brenden** expressed disapproval to paying more for land than it is appraised for.

*Action: **Mulligan** moved and **Lane** seconded the motion to approve the acquisition of the 8.66 acres adjacent to Lewis & Clark Caverns as recommended by the Department. Motion Carried.*

**11. Thompson Chain of Lakes (TCL) FAS Camping Fee Implementation - Final.** **Monger** said 26 comments were received regarding the TCL tentative camping fee proposal that was passed in September to implement a \$7 camping fee for individuals who possess a fishing license, and a \$12 fee for individuals who do not have a fishing license. Comments were nearly evenly split with 12 in support and 14 in opposition. He said the public was made aware of this proposal through press releases, by brochures and flyers, and through public meetings. A survey regarding the implementation of a camping coupon did not bring forth any interest or comments, so the Department did not include that concept as part of the recommendation. **Monger** said camping coupons were offered several years ago and proved not to be popular. He added that the cost of printing the coupons surpassed the revenue earned from their sales, and it is a staff intensive program as well.

**Murphy** said several people had contacted him with concerns over this fee implementation. He suggested that possibly the mentality of the public could have changed over the years and they would welcome a camping coupon now. He would like to offer the opportunity once again.

*Action: **Murphy** moved and **Lane** seconded the motion that the Department implement a 2-year test pilot coupon program consisting of coupon books sold for \$25 good for 5 visits to TCL.*

*Discussion on Motion:* **Brenden** asked if there are any other exceptions to the rule or would this be the only one? **Monger** replied that senior citizens receive a discount, but that is the only exception. **Brenden** stated he does not like exceptions. He added that he is aware of the economic situation in that area, but isn't inclined to believe that reducing the fee will make much difference. He said people feel ownership and responsibility when they pay for privileges. He agrees with the implementation of a fee.

**Walker** commented he will not support the coupon program as he feels there should be equity in the fee system. He added that establishing a cumbersome fee mechanism would not be a benefit to anyone. He asked about the individual who buys a whole book but can only go camping once - that person would lose money.

**Monger** said this program would be unique to the 46 fee camping FAS areas, and would create confusion, particularly to the adjacent Logan State Park. **Hagener** questioned enforcement of the coupon, as it is only valid at TCL. **Mulligan** said he is not in support of coupons either.

**Murphy** asked Jim Kropp, **FWP Enforcement Division Administrator**, if this would be a difficult enforcement issue. **Kropp** said there will be problems, that it is a potential enforcement issue, particularly since this area is not manned twenty four hours a day.

*Action: **Murphy** withdrew the motion.*

*Action: **Walker** moved and **Mulligan** seconded the motion to implement a \$7 per night fee for campers with fishing licenses and a \$12 per night fee for individuals without fishing licenses at the Thompson Chain of Lakes FAS, and operated in the same manner as the other 46 FAS that charge camping fees. Motion carried.*

**12. Smith River Special Landowner Rule - Final.** **Monger** said three public meetings had been held regarding the approved tentative modification to Landowner Section K of the Smith River Rule. Seven comments were received as a result of the comment period - two in support, three opposed, and two with only questions. The modifications will require landowners to report to FWP any floats within their contiguous property boundaries, will require boat tags on landowner watercraft, and will allow landowners the option of designating an individual to accompany a landowner float party within their contiguous boundaries.

*Action: **Lane** moved and **Brenden** seconded the motion to approve the proposed changes to Section K of the Smith River Special Area Use Rule as recommended by the Department.*

*Discussion on Motion:* **Mulligan** stated he will not support this proposal; he does not feel it meets the intent of the statute.

*Action on motion:* Four in favor - one opposed (Mulligan). Motion carried.

**13. 2004 Deer, Elk, Antelope Seasons / HD Boundaries - Tentative.** Jeff Herbert, FWP Wildlife Division Assistant Administrator, and Gary Hammond, FWP Wildlife Big Game Bureau Chief, presented the proposed changes to the current hunting regulations for consideration as 2004 tentatives.

**Herbert** said liberal season regulation packages are offered this year due to the series of mild winters Montana has experienced the last few years.

Deer - Region 1

Offer general season youth either sex whitetail deer for entire region

HD 100 - Initiate season for 200 B licenses for antlerless whitetail deer

HD 103 - Initiate antlerless mule deer season offering 100 antlerless permits valid with Deer A license

HD 104 - Initiate 200 B licenses for antlerless whitetail deer

HD 109 - Initiate 50 B licenses for antlerless whitetail deer

HD 170, HD 132, HD 102 - Minor boundary changes

Murphy recommended adding: Last 4 days of general season be either-sex whitetail across Region 1.

*Action:* **Murphy** moved and **Lane** seconded the motion to approve the proposed changes to the current Region 1 Deer Regulations as recommended by the Department with the amendment to include the addition of the last 4 days of general season be either sex whitetail across Region 1. Motion carried.

Deer - Region 2

HD 215-00 - Initiate 50 antlerless whitetail B licenses valid outside National Forest

HD 284 - List area closure in HD 284 legal

HD 290 - Change the archery season dates for either-sex whitetail from Sept. 4 – Dec. 15 to Sept. 4 – Nov. 28. Also, add antlerless whitetail only from Nov. 29 – Jan. 1. Additionally, change the ending date for 290-10 and 002-10 B licenses to Jan. 1

HD 290-20 - Eliminate the 50 permits for ES white-tailed deer or mule deer

HD 292-01 - Implement a 5-week ES white-tailed deer season for youth (12-14)

HD201, HD202, HD203, HD280, and HD281- Boundary adjustments

When **Mulligan** asked for the rationale behind the modifications in HD290, he was told the Ovando area is primarily private land, and FWP changed the date in the past to allow more opportunity. There is game damage, and the recommendation is to close the season on November 28, then implement antlerless-only from November 29 through January 1. District 290 has been unlimited either sex and the reason for that was to draw hunters into that area.

*Action:* **Murphy** moved and **Lane** seconded the motion to approve the proposed changes to the current Region 2 Deer regulations as recommended by the Department. Motion carried.

Deer - Region 3

HD 315 - Change from a 5-week antlered buck season to a 5-week either-sex mule deer season

HD 380-02 - make B licenses valid from Sept. 1 through Nov. 28

HD 390 - Change to unlimited permits for antlered buck mule deer in the west portion of HD 390

**Mulligan** said he had a request to create a weapons restrictions area at Clark Canyon Reservoir by the Bureau of Reclamation. **Kurt Alt, FWP Region 3 Wildlife Manager**, said this issue just came up due to an incident this year when a high powered rifle bullet was shot into a residence. There has been a series of these types of episodes happen over the years, and FWP wardens were recently informed that if FWP does not place a weapons restriction area there, they will simply close it to hunting from a safety perspective. The Enforcement Division put together a draft legal description around the Bureau of Reclamation property around Clark Canyon Reservoir.

Mulligan stated he had three proposals he wished to recommend for the Region 3 Deer regulations. He made three separate motions which were included under one complete motion addressing the Region 3 Deer Regulations.

*Action: **Mulligan** moved to add a weapons restriction area (shotgun, traditional handgun, archery weapons and black powder - the standard weapons) around Clark Canyon Reservoir (HD 329 and 302 and portions of antelope hunting district 329 and 300) as defined in the memo by Mr. Gordon Anderson. It is that portion of the Bureau of Reclamation lands and Beaverhead County lying within the following described boundary: Beginning at the intersection of Interstate 15 and Highway 324 at Clark Canyon Dam, then westerly along Highway 324 to the South Shore County Road, then easterly along the South Shore County Road to the Red Rocks access site and the Bureau of Reclamation jack leg boundary fence, then easterly along Bureau of Reclamations fenced boundary to Interstate 15, then northerly along Interstate 15 to the Highway 324 intersection, the point of beginning.*

**Alt** said the boundary along the jackleg fence would be posted. He added that if this is adopted as a tentative, the Department would need to conduct a public hearing process to assure a mutual solution is reached.

**Mulligan** recommended presenting this to the public for comment. He said the Commission received a valid request by a landowner and it needs to be addressed. **Herbert** added the reservoir is down so low it has created flats that animals, even moose, use in dry years. There are also concerns below Clark Canyon Dam where there is a fishing access site.

**Mulligan** said there is a request regarding the Gallatin Weapons Restricted Area to have the over the counter whitetail B tags good through the extended season through January 14. The over the counter whitetail B tags are only good through the end of general season. Mulligan said he feels that is a valid request.

*Action: **Mulligan** moved to extend the over the counter whitetail B tags in the Gallatin Weapons Restricted Area through the extended season.*

**Alt** said there are over the counter Gallatin Valley Weapons Restricted Deer B licenses that can be bought over the counter in Region 3. The A tag can be used for a doe in that area through that period and we have no problem allowing Region 3 over the counter whitetail Deer B licenses to be used in that area.

**Mulligan** said the over the counter whitetail tags for Region 3 are only good for residents. He would like to see those be good for nonresidents, over the counter, without them needing to have the nonresident big game license as a prerequisite. He proposes it be unlimited. They would still be required to have the conservation license and hunter education, as well as pay the hunting access enhancement fee.

*Action: **Mulligan** moved to make the nonresident Region 3 over the counter whitetail B license available without a B-10 prerequisite to hunters possessing a conservation license and hunter education proof, and they must pay the hunting access enhancement fee.*

*Action: **Mulligan** moved and **Lane** seconded the motion to approve the proposed changes to the current Region 3 Deer regulations as recommended by the Department including the three amendments proposed by Commissioner Mulligan.*

*Action on motion: Motion carried.*

*Proposed Establishment of New Hunting District 338 Separated from Hunting District 339*

Commissioner Murphy presented his proposal to separate Hunting District 339 into two districts to create new District 338, which would include deer, elk and mountain lion. It would create a new district for deer. He said this is currently a spike-only hunting area. He stated he has addressed his concerns numerous times in respect to spike only / trophy bull hunting. HD 339 would become a brow tine bull area. The habitat in what would become HD338 is very similar to HDs 392 and 423.

Specific to the deer, if the Department went back to a general hunting season for mule deer, there would be crowding issues. Therefore, he left it as unlimited to see FWP getting out of this spiral that unlimited areas cause. He said he would refer to the Department as far as biological recommendations as to the numbers of deer to harvest. Archery would be the same - antlerless mule deer and either sex whitetail.

Hunting District 338 would be a new district for the mountain lions as well, but it would be included with HDs 335, 343 and 339 of which it is a part of now; it would be included as one of four districts as far as that particular quota is concerned.

*Action: **Murphy** moved to establish a new Hunting District 338 for deer from the existing HD 339.*

*Discussion on Motion: **Mulligan** said he wasn't sure how the hunting district between deer and elk would be separated. **Herbert** said the motion could be to create a new deer and elk hunting district 338 from the existing HD339 so the motion would include both deer and elk.*

*Action: **Murphy** amended his motion to move the boundary adjustment to reflect the establishment of a new hunting district for deer, elk and mountain lion - that district being HD 388.*

**Mulligan** said he does not necessarily agree with this proposal yet, however, he would like to hear discussion on the issue. **Lane** said he would like it to be presented to the public to provide every opportunity for them to make opinions and suggestions known.

*Action on Motion:* **Mulligan** seconded the motion.

*Discussion on Motion:* **Walker** said the idea is apparently not new as letters of opposition have been received from landowners in the area that has to do with elk. He asked if this proposal originated from the Department or from where. **Murphy** said this comes from himself.

**Mulligan** said he can understand the deer side of the issue, but asked for explanation of the elk side. He asked if it is because of Murphy's philosophy on not wanting limited hunting.

**Murphy** said, "... personally I have a real problem with establishing these trophy hunting activities. When HD339 was established, the elk herd in that area was doing fine, biologically there were plenty of elk, and in the area this HD338 is in, there were plenty of bull elk. The other part of that district, the number of larger bulls certainly was more limited. There's more open country and its more accessible, as far as getting those bulls out. But philosophically, I personally, as well as a lot of individuals I know, have a real problem with setting up these areas for strictly trophy bull hunting. When we went through the process in 1996, or whenever, when HD339 was established, there was considerable opposition. In fact, we were involved with it as were many others in opposition to it. It passed. At that time, there was a petition passed that was signed by approximately 1,000 individuals from either the local area here, or within the Region 3 area, that was signed in opposition to it. It still passed and I personally have a real problem with this. I like the concept of a brow tine bull program. I think it does provide for additional bulls. I believe it's working. I believe it does provide for more bulls in a population. It gives a spike elk an opportunity to become a little wiser. And I think we run a lot more raghorn bulls into that population, and those raghorns then have another year, basically, to get some wisdom under their belts, giving them an opportunity to outsmart us and survive to become 5 and 6 points. That is my own personal philosophy, but it is shared by hundreds of other individuals. I'd like to put this out for a tentative and get feedback on it and see where it goes."

**Mulligan** asked what triggered the original change in 1996. **Alt** said he thinks what triggered the original change was the low security district, and prior to 1996, there were 4 bulls per 100 cows. Now there are 20 bulls per 100 cows, so the impact of the season has been productive. One of the other criteria was that considered when it became spike / either-sex seasons in this region, was the objective of 50% of the bull population being brow timed bulls. The original impetus was the low bull / cow ratio that existed in a low security district.

**Mulligan** asked what the consequences will be of splitting this into two districts. **Alt** said this has caught him off guard. It makes another hunting district - adds another layer onto the regulations, but in terms of a biological consequence, he has no idea at this point. He said he would have to look back further into the historical information, and talk to the biologists.

**Murphy** said "as a personal observation from someone from the area the elk herd under an any bull program, the herd basically exploded. Now, the bull / cow ratio, he agrees, that in the open areas it

was low. But in this area, this part of the district, it is a much more difficult area to get into, its tough hunting, its rough country, so bulls do fine. There are lots of bulls. I guess from the standpoint of the original concept, its kind of back to the same thing with the deer, was the intent to form strictly a trophy bull area or was the intent to bring the bull numbers back up.”

**Alt** said it was not the intent, either in the Elkhorns or HD 339, to create a trophy bull district, or FWP wouldn't be issuing the kind of permits being issued in those areas. If FWP was going to do that, the Department would compare it to a place with a population base of 2500 elk and shoot 30 bulls a year. That's trophy management. He doesn't think this season was designed to provide that kind of hunting opportunity, but they were designed to in low security districts to create a more mature and higher percentage of mature bulls in the harvest. If FWP was limiting permits to a small fraction of what bulls were there, then we would be in trophy management, but we are not in those districts.

**Childress** said the deer and the elk are tied together by hunting districts. He suggested moving forward with HD338 in the elk regulation discussion, which actually creates the same district under deer regulations, rather than at this point in time.

Cathy Campbell, landowner / rancher near the Gates of the Mountains said Commissioner Murphy stopped at her home about a week ago and told her what he was proposing. She said when the plan was originally put into effect the way it is now, she was in support of it because she had been feeding a lot of elk and she thought it would be nice to see a few more males and more larger males. She said she doesn't consider that necessarily being trophy, just that it's nice to see males grow up, and a higher percentage of the elk being males. From what she has seen it has worked well – the numbers have gone up. She supports the program as it is now. It allows the hunters to hunt large bulls. She said if it not done as it is now, she will only allow friends on her land to hunt. She would like to see the program continued as it is.

Walker directed this discussion continue the elk portion of the meeting.

#### Deer - Region 4

HD 421 & 423 - Establish either sex mule deer season outside the National Forest; Archery season will be either-sex, either species season long.

HD 404 & 450 - Create a Teton Spring Creek Special Weapons Restriction Area located outside new TSCBP boundary.

*Action: **Lane** moved to approve the proposed tentative for the 2004 deer season aware that the creation of the Teton Spring Creek weapons restriction area is not popular with some of the people in that area. **Mulligan** seconded the motion.*

*Action on Motion: Motion carried.*

#### Deer - Region 5 - No proposed changes to the current Region 5 regulations.

**Walker** said he had been contacted by people who suggested that FWP extend permits in HD570 until the end of the year to achieve harvest of antlerless deer in that district, rather than offering damage hunts.

**Ray Mule', FWP Region 5 Wildlife Manager**, said whitetail populations in the Region are at record high numbers in many areas, and there have been several game damage complaints. FWP is looking at increasing Antlerless Whitetail B license quotas, however it was opted not to make quota change recommendations until the winter survey has been completed.

**Walker** said the concern is more relative to season structure than quota, due to the intermingling of landowners who open their land to hunting or belong to block management programs, and those who don't. He said a damage hunt is not a great deal more effective than a regular season is, but extending the season would provide additional opportunities, particularly to those who did not participate in the regular season.

**Mule** said he would like to discuss the issue at greater length with FWP staff and landowners to see how extensive to get; whether the entire region or portions of regions should be extended, and if other districts should be extended as well.

*Action: **Walker** moved and **Mulligan** seconded the motion to amend the current Region 5 Deer regulations to extend the season in HD570 through December 31.*

*Discussion on Motion: **Mulligan** asked why the 500 HDs do not sell over the counter whitetail tags. Mule said it is primarily an access issue; people unfamiliar with the area do not have the contacts available to attain access. He added that when those licenses are sold in surplus, multiple licenses are offered to individuals who have access.*

*Action on Motion: **Walker** amended his motion to include HD597, HD598 and HD599. **Mulligan** seconded the motion. Motion carried.*

#### Deer - Region 6

HD 620, HD 621, and HD622 - Initiate a season with 100 antlerless mule deer B licenses to be valid in all three hunting districts

*Action: **Brenden** moved and **Walker** seconded the motion to approve the proposed changes to the current Region 6 Deer regulations as recommended by the Department. Motion carried.*

#### Deer - Region 7

HD 700-10, HD 700-11, HD 700-13, and HD 700-14 - Drop the requirement (from 2003 hunting season) that hunters must purchase a 700-10 (resident single region whitetail B license) before purchasing a 700-11 license (resident 2<sup>nd</sup> Whitetail B license). Also, drop the requirement that hunters must purchase a 700-13 (resident R-7 Muledeer B license) before purchasing a 700-14 (resident 2<sup>nd</sup> Muledeer B license).

*Action: **Walker** moved and **Brenden** seconded the motion to approve the proposed changes to the current Region 7 regulations as recommended by the Department.*

**Hammond** said the reason this was recommended is to allow hunters who possess a single region whitetail tag in one region the ability to purchase a tag in another region and not have to buy the single region whitetail tag in that region.

*Action on Motion: Motion carried.*

ELK

**Herbert** prefaced the elk proposals saying the majority of the western states resident licenses typically cost double of what Montana charges.

Elk - Region 1

HD 121, HD 123, & HD 124 - Change to brow-tined bull/antlerless elk hunting the 1<sup>st</sup> 8 days of the general season (Oct. 24-Oct31) followed by brow-tined bull/antlerless permits for the balance of the general season (Nov 1-28).

HD 150 & HD 151 - Expand the brow-tined bull/antlerless season in these Hunting Districts from the 1<sup>st</sup> 5 days of the season (Sept. 15 opener) to the period from Oct. 2-17.

ALL Region 1 Hunting Districts - Expand youth hunting for elk to include the entire region.

HD 170 - Change from either-sex elk hunting during the general season to brow-tined bull/antlerless elk hunting. Additionally, antlerless hunting would be extended to Feb. 15.

HD 132 - Discontinue special permits for antlerless elk in a portion of the hunting district, and extend the season to include the period from Nov. 29-Feb. 15 in the East Flathead Valley portion of HD 132 outside DNRC lands and the National Forest.

**Jim Williams, FWP Region 1 Wildlife Manager**, said the region has been operating in a recovery mode since 1996. He said if HDs 121, 123, and 124 are changed to brow time bull or antlerless, and not either sex, and HDs 100, 103 and 104 are included, any potential impacts would be spread. Additionally, the region would like to reduce antlerless permits currently valid in those districts in order to monitor the area to see what the impact might be.

*Action: **Murphy** moved and **Mulligan** seconded the motion to approve the proposed changes to the current Region 1 Elk regulations as recommended by the Department, with the addition of the HD100, HD103 and HD104 to brow tined bull/antlerless hunting the 1<sup>st</sup> 8 days of the general season followed by brow tined bull/antlerless permits for the balance of the general season, and reduce the number of permits in these districts by 50%. Motion carried.*

Elk - Region 2

HDs 200, 204, 211, 214, 240, 250, 261 and 270. Initiate either sex or brow time bull antlerless season depending on the existing bull regulation the first 8 days of the general season (Oct 24 - 31) with antlerless permits or A7s for the balance of the general season (Nov 1- 28).

HD 201, HD 202, & HD 203 - Boundary change to follow Clark Fork River rather than I-90

HD 203 - Split HD, with 140 permits east of Petty Creek Rd, and 10 permits west of Petty Creek Rd

HD 204-70 - A-7's valid through Jan. 1 on private land (except Plum Creek lands)

HD 204-71 - Unlimited A-9's on private land OTC

HD 260-00 - Antlerless permits valid through Jan. 1.

HD 261-70 - A-7's valid through Jan. 1 on private land

HD 261-71 - Unlimited OTC A-9's on private land

HD 280-00 - 150 permits for BTB/antlerless elk

HD 280 / HD 281 - Minor boundary change

HD 283 - Eliminate A-9 licenses

HD 285-00 - 300 permits (change from A-7 licenses to either-sex)

HD 291/293 - Antlerless permits valid through Nov. 28 (Jan. 1 in 2003)

HD 292-02 / 283-01 - Scheduled early season in Potomac valley (25 permits for Sept. 20 – Oct. 23).

Permit holders would be offered A-9/B-12 license valid for the same time period and hunt area.

HD 298-70 & 298-80 - Unlimited Over the Counter for A-7 via special drawing. Unlimited A-9's (with Jan. 1 closing date) available at Region 2 FWP headquarters.

The majority of the Bitterroot hunting districts are above objective in the Elk Plan. No adjustments were made in antlerless permits or A7 licenses. Pressure may be needed later as the migratory elk may not be available the first 8 days of the season. As surveys are done in the spring, adjustments may need to be made. The proposed A9s in the north part of the Bitterroot Valley are on private land where there has been game damage. Landowners will limit the number of hunters on their land. A major portion of the Ovando, Helmville, and Blackfoot Clearwater areas consists of private land, but there have been fairly successful seasons with the unlimited A7s. Landowners are satisfied.

*Action: **Murphy** moved and **Walker** seconded the motion to approve the changes to the Region 2 Elk regulations as proposed by the Department with the addition of either sex for first 8 days in HDs 200, 204, 211, 214, 240, 250, 261 and 270. Motion carried.*

**Walker** expressed concern, and **Mulligan** said he too, was concerned about the lack of consistency in ending dates throughout the regions. **Herbert** said from the standpoint of assembling regulations, standardized dates would simplify matters. **Walker** recommended that this be dealt with.

#### **Multi-District 3-Year Wait For The Limited Either Sex Permits**

Herbert suggested entertaining recommendations related to the multi-district 3-year wait for the limited either sex permits at this time.

The recommendation where districts have limited numbers of either sex, with the most focus on bulls, is to impose a 3-year waiting period on approximately 42 districts where the drawing success rate is less than 25%. Those who apply for and receive a limited entry permit would be imposed a three-year waiting period before they could apply for any of those permits. **Walker** suggested 5 years rather than 3 years because of the number of antlerless permit applicants who no longer have an area to apply in - he feels there will be an influx of applicants. **Murphy** asked if a person draws a permit in one of the limited areas, would he be preempted from applying for any of those areas statewide. **Herbert** said it would be statewide, but it would not apply to the unlimited archery in the Breaks. **Walker** asked how FWP would deal with landowners where one or more person can be an applicant - is it per parcel or per person. **Mulligan** said he feels it would be per individual who held the tag. **Colleen Carroll, FWP Licensing Administrative Officer**, said only one person can apply under title of the land and the landowner could designate someone else to apply if they so desire.

**Murphy** said he opposes putting a waiting period on elk hunting. He feels it is a loss of opportunity and one more limitation. **Mulligan** said he feels it is important to see what the public has to say as there have been numerous requests from the public over the years to impose a time-limit.

*Action: **Mulligan** moved and **Lane** seconded the motion to approve the Department's recommendation to impose a statewide elk waiting period, with the exception that it be expanded to a 5-year period as opposed to the proposed 3-year period.*

*Discussion on Motion:* **Brenden** said he is totally in disagreement with this proposal as it creates another restriction.

A gentleman in the audience stated he is in favor of this waiting period.

*Action on Motion:* Motion carried. Three in favor - 2 opposed. (Murphy and Brenden opposed).

### Elk - Region 3

HD's 300, 302, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 340, and 341 - Multiple HD's (including HD's west of the Madison River and south of I-90). The 1<sup>st</sup> eight days of the general season (Oct. 24-Oct.31) will be either-sex or brow-tined bull / antlerless (depending on the existing bull regulation). The balance of the season (Nov. 1-Nov. 28) will be any bull or BTB (depending on the existing bull regulation). Additionally, A-9/B-12 licenses will replace either sex, antlerless, &/or A-7 licenses.

HD's 311, 312, 314, 315, 317, 333, 360, 361, 362, 390, 393 - Multiple HD's (including HD's in Region 3 east of the Madison River and south of I-90, and including Bridger/Bangtail/Belts and the Crazies north of I-90). In, the 1<sup>st</sup> 8 days (Oct. 24-Oct.31) and the last 9 days of the general hunting season (Nov. 20-Nov. 28) will be either sex or BTB/antlerless (depending on the existing bull regulation). Additionally, either sex, antlerless and/or A-7 licenses will be replaced with A-9/B-12 licenses.

HD 310-12, 310-00, 310-13, 310-14: Gallatin late hunt in these HD's is proposed for closure in 2004.

HD 311: Issue zero permits for HD 311-20 and 311-21 for the 2004 late season elk hunt.

HD 311: Establish 12-14 year old either-sex hunting opportunity for the general elk season.

HD 360: Eliminate the late season Madison elk hunt (360-00, 360-01, 360-02, 360-03).

Replace ES or BTB/antlerless permits (depending on existing bull regulation) and A-7 licenses with A-9/B-12 licenses that will be limited through the drawing, and as summarized by hunting district:

#### HD A9/B12 Licenses

300	600	Oct 24 – Nov 28
301	125	Sept 1 – Oct 23 on private land only/Oct 24 – Nov 28 valid entire HD
302	100	Oct 17 – Oct 23 on private land only/Oct 24 – Nov 28 valid entire HD
310	25	Nov 21 – Nov 28 entire HD
311	200	Oct 24-Nov 28 entire HD
312	200	Oct 24-Dec. 12 entire HD
314-80	250	Oct 24 – Nov 17 north half of HD
314-81	250	Oct 24 – Nov 17 south half of HD
314-82	375	Nov 18 – Dec 12 north half of HD
314-83	250	Nov 18 – Dec 12 south half of HD
315	350	Oct 24 – Dec. 12 entire HD
317	350	Oct 24 – Dec 12 entire HD
319	500	Oct 24 – Dec 12 entire HD
320	200	Oct 24 – Dec 12 entire HD
321	500	Oct 18– Oct 23 on private land only/Oct 24 – Nov 28 entire HD
322	120	Oct 24 – Dec 12 entire HD
323-80	350	Oct 24 – Dec 12 not valid on Wall Creek WMA
323-81	100	Oct 24 – Dec 12 entire HD

324	900	Oct 24 – Nov 28 entire HD
325	600	Oct 24 – Nov 28 entire HD
326	200	Oct 24 – Nov 28 entire HD
327	700	Oct 24 – Nov 28 entire HD
328	300	Oct 18 – Oct 23 private land only/Oct 24 – Dec 12 entire HD
329	500	Oct 18 – Oct 23 private land only/Nov 28 – Dec 12 entire HD
330	700	Oct 24 – Nov 28 entire HD
331	600	Oct 18 – Oct 23 private land only/Oct 24 – Dec 12 entire HD
332	500	Oct 18 – Oct 23 private land only/Oct 24 – Dec 12 entire HD
333	400	Oct 24 – Nov 28 entire HD
340	250	Oct 24 – Nov 28 entire HD
341	175	Oct 18 – Oct 23 private land only/Oct 24 – Dec 12 entire HD
360, 362-398	500	Sept 1 – Oct 23 private land only/Oct 24 – Nov 28 entire HD (except Bear Cr WMA & during 362 late hunt)
390	35	Sept 1 – Oct 23 private land only/Oct 24 – Nov 28 entire HD
393	250	Oct 24 – Dec 12 entire HD

*Action: **Mulligan** moved and **Lane** seconded the motion to approve the Region 3 Elk tentative regulations as recommended by the Department. Motion carried.*

**Murphy** said the establishment of new hunting district 338 would be created by using a portion of HD339, and it would change the hunting status on that portion from a spike only/trophy bull hunting to a brow tine bull area with a certain number of cow tags being issued. He said the Department could determine the number of cow tags allowed. He would also like to see the addition of antlerless elk only youth (ages 12-14) as well. The mountain lions would also be HD338 included with 335, 343, and 339 as part of four districts with the same quotas.

*Action: **Murphy** moved and **Lane** seconded the motion to implement new Hunting District 338 as indicated.*

*Discussion on Motion:* **Murphy** said he would like to work with the Department regarding boundary descriptions and if adjustments need to be made. **Lane** said his understanding is that this has not been revisited since 1996, and it might be good to survey the public to see what they do think of this proposal. **Mulligan** agreed it is a good idea to see what the public says.

Two gentlemen in the audience spoke in opposition of this idea - one said there are too many districts now, and the other said he does not see the rationale for this, that there is a diverse age structure now and he is adamantly opposed.

*Action on Motion: Motion carried. (Walker opposed).*

#### Elk - Region 4

HDs 401, 410, 411, 412, 417, 420, 425, 426, 441, 447, 450, 455 - Three-year waiting period for all Region 4 hunting districts with limited entry bull permits  
 Establish a single region A-9/B-12 antlerless elk license valid in most of Region 4 on DNRC and private lands only during both the archery and the general seasons. This proposal does not

include HD's 401, 410, 417, 445, 450, and 455.

HD's 413, 416, 418, 432, 446, 447, 448, 449, 452, & 454 - Multiple hunting districts. Eliminate early (6-day) antlerless elk permit authorization in Multiple Region 4 HD's: Establish general season either-sex elk hunting in HD's 400, 404, 405, 406, 419, 444, & 471.

HD 401-70: Eliminate A-7 licenses.

HD 411-00/01: Validate A-9/B-12 licenses in concert with antlerless permits (early & late seasons).

HD 412-00: Validate use of A-9/B-12 licenses in concert with antlerless permits (late season).

HD 416-00: Extend antlerless permits to December 15: validate A-9/B-12 use.

HD 421/423: Validate use of A-9/B-12 licenses in concert with antlerless permits (early and late seasons)

HD 422-00: Validate use of A-9/B-12 licenses in concert with antlerless permits (late season).

HD 425: Adjust archery season to BTB/Antlerless to conform with adjacent seasons/districts 424 & 442.

*Action: Lane moved and Murphy seconded the motion to approve the proposed changes to the current Region 4 regulations as recommended by the Department. Motion carried.*

Elk - Region 5 - Hammond recited the following proposed changes to the Region 5 Elk tentatives.

Multiple Region 5 HD's: 1<sup>st</sup> 8 days general season for antlerless elk from Oct. 24 – Oct 31 AND last 9 days general season for antlerless elk from Nov. 20 – Nov. 28 in HD's 500, 502, 540, 560, 570, 575, & 580. HDs 500, 502, 560, 570, 575, and 580 generally provide bull hunting in all or a portion of the district by special permit. HD 540 provides either sex or antlered bull hunting during different periods of the season.

HD 510: That portion of this HD lying west of HWY 310 will have a general rifle season from Sept. 4 – Nov 28. There will also be 4 ES permits valid from Aug. 15 – Nov. 28. Permits for HD's 502 and 520 will no longer be valid in HD 510. Permits for HD 510 will also be valid in HD 502.

HD 590 (That portion of the HD south of the Yellowstone River (Pine Ridge): General antlerless rifle season will be implemented from Sept. 4 – Nov. 28; Increase ES permits from 50 to 75 valid from Aug. 15 – Nov 28. Eighty antlerless elk permits valid from August 15-Dec 31.

**Walker** and **Brenden** expressed concerns regarding fire danger during rifle season.

*Action: Walker moved and Murphy seconded the motion to approve the proposed changes to the current Region 5 regulations as recommended by the Department. Motion carried.*

Elk - Region 6 - Hammond said there were no proposed changes to the Region 6 Elk tentatives.

*Action: Brenden moved and Lane seconded the motion to approve the proposed changes to the current Region 6 Elk regulations as recommended by the Department. Motion carried.*

Elk - Region 7 - Hammond said there is one proposed change to the Region 7 Elk tentatives.

HD 703: ES elk hunting will be offered in this district (elk are located on private land and public access is difficult).

*Action: Walker moved and Murphy seconded the motion to approve the proposed changes to the current Region 7 regulations as recommended by the Department. Motion carried.*

**Antelope**

**Hammond** said he had received a letter from Charlie Johnson, Montana Bow Hunters Association, requesting the closure of antelope season on the same date as the deer/elk archery only season. **Hammond** said that proposal was not brought forward at this time due to fire dangers. **Mulligan** suggested it could be placed in the tentatives with further consideration after the comment period.

Antelope - Region 2 and Region 3 - **Hammond** said there are no changes to the Region 2 and Region 3 Antelope tentatives.

Action: **Murphy** moved and **Mulligan** seconded the motion to approve the Region 2 and Region 3 regulations as they currently read as recommended by the Department. Motion carried.

Antelope - Region 4

HD 413-10: Add doe/fawn licenses; reduce either-sex licenses.

HD 420: Boundary adjustment.

HD 441-00: Establish a new HD and implement 10 ES licenses (includes new legal description).

HD 470-10: Add doe/fawn licenses; reduce ES licenses

Action: **Lane** moved and **Murphy** seconded the motion to approve the proposed changes to the current Region 4 Antelope regulations as recommended by the Department. Motion carried.

Antelope - Region 5

Multiple HD's in R-5: Will offer up to 2 doe/fawn licenses to ES license holders in HD's 500, 501, 510, 513, 530, 550, 560, 570, 571, and 590.

Together, Regions 5, 6, and 7 may offer up to 2 doe/fawn licenses (900-30) to 900-00 license holders available OTC through ALS.

Action: **Walker** moved and **Brenden** seconded the motion to approve the proposed changes to the current Region 5 Antelope regulations as recommended by the Department. Motion carried.

Antelope - Region 6

Region-wide proposal: All 900-00 license holders will be offered the opportunity to purchase up to 2 doe/fawn licenses valid in R's 5, 6, and 7 available OTC through ALS.

HD 630: Create a doe/fawn season, beginning with a quota of 50 permits.

Action: **Brenden** moved and **Lane** seconded the motion to approve the changes to the current Region 6 Antelope regulations as recommended by the Department. Motion carried.

Antelope - Region 7

Region-wide proposal: Region 7 will offer up to 2 doe/fawn antelope licenses (up to quota of 8000) to any hunter (no ES license prerequisite). This license will be offered OTC through ALS.

Region-wide proposal: All 900-00 license holders will be offered the opportunity to purchase up to 2 doe/fawn licenses valid Regions 5, 6 & 7.

Action: **Walker** moved and **Brenden** seconded the motion to approve the changes to the current Region 7 Antelope regulations as recommended by the Department. Motion carried.

**14. 2004 & 2005 Moose, Sheep, Goat Seasons, Quotas, and HD Boundaries - Tentative.**

**Moose**

Moose - Region 1 and Region 2 - No changes to regulations

*Action: **Murphy** moved and Walker seconded the motion to approve the Region 1 and Region 2 Moose regulations as they currently read as recommended by the Department. Motion carried.*

Moose - Region 3

Split moose HD 308 into two districts:

HD 304 (the east side of the Gallatin River and Portal Creek area): quota of 4 antlered bull licenses.

HD 308 (the west side of the Gallatin River, Big Sky area): quota of 4 antlered bull licenses.

*Action: **Mulligan** moved and **Lane** seconded the motion to approve the changes to the current Region 3 Moose regulations as recommended by the Department. Motion carried.*

Moose - Region 4

HD 494 & 496: Boundary change/legal description.

*Action: **Lane** moved and **Murphy** seconded the motion to approve the changes to the current Region 4 Moose regulations as recommended by the Department. Motion carried.*

Moose - Region 5

No changes

*Action: **Walker** moved and **Brenden** seconded the motion to approve the Region 5 Moose tentatives as they currently read as recommended by the Department. Motion carried.*

Bighorn Sheep

Bighorn Sheep - Region 1

HD 121: Extend the season from the current closure date of Nov. 15 to a new closure date of Nov. 28

HD 123: Combine the ES permits valid for HD 123-00 and 123-01 into 123-00, and make them valid through Nov. 28.

*Action: **Murphy** moved and **Lane** seconded the motion to approve the changes to the current Region 1 Bighorn Sheep regulations as recommended by the Department. Motion carried.*

Bighorn Sheep - Region 2

HD 212-00: This is a new hunting district, and will have 1 ES permit.

HD 213-30: Add 5 adult ewe permits (new this year).

HD 216: Extend season from Oct. 31 to Nov. 15.

HD 261-00: Increase ES permits from 1 to 2.

HD 270-00: Increase ES permits from 6 to 8

HD 270-30: Increase adult ewe permits from 5 to 20.

*Action: **Murphy** moved and **Walker** seconded the motion to approve the changes to the current Region 2 Bighorn Sheep regulations as recommended by the Department. Motion carried.*

Bighorn Sheep - Region 3

HD 340: Boundary Change

When questioned about the proposed boundary change, Alt responded he was not aware of any boundary changes in Region 3, that this was an inadvertent mistake.

*Action: **Mulligan** moved and **Murphy** seconded the motion to approve the Region 3 Bighorn Sheep regulations as they were - with NO boundary changes. Motion carried*

Bighorn Sheep - Region 4

HD 482: Reduce ES permits from 12 to 10.

Action: **Lane** moved and **Walker** seconded the motion to approve the change to the current Region 4 Bighorn Sheep regulations as recommended by the Department. Motion carried.

Bighorn Sheep - Region 5

HD 500: Expand boundary to include the ridge system east of Boulder Pass to Slough Creek, including the Monument/Haystack Peak area. Additionally, increase the quota from 1 to 2.

Herbert clarified that this is for one legal ram.

Action: **Walker** moved and **Murphy** seconded the motion to approve the change to the current Region 5 Bighorn Sheep regulations as recommended by the Department. Motion carried.

Bighorn Sheep - Region 6

No changes to current regulations.

Action: **Brenden** moved and **Lane** seconded to approve the Region 6 Bighorn Sheep regulations as they currently read as recommended by the Department. Motion carried.

**Mountain Goats**

Mountain Goats - Region 1 and Region 2

No changes to current regulations.

Action: **Murphy** moved and **Lane** seconded the motion to approve the Region 1 and Region 2 Mountain Goat regulations as they currently read as recommended by the Department. Motion carried

Mountain Goats - Region 3

HD 313: Increase the quota from 26 to 30 ES licenses.

HD 314: Increase the quota from 8 to 14 ES licenses.

HD 316: Increase the quota from 8 to 12 ES licenses.

Action: **Mulligan** moved and **Murphy** seconded the motion to approve the changes to the current Region 3 Mountain Goat regulations as recommended by the Department. Motion carried.

Mountain Goats - Region 4 and Region 5

No changes to current regulations.

Action: **Walker** moved and **Lane** seconded the motion to approve the Region 4 Mountain Goat regulations as they currently read as recommended by the Department. Motion carried.

**15. 2004 & 2005 Black Bear & Mountain Lion Seasons, Quotas, & HD Boundaries - Tentative.**

**Black Bear**

Black Bear - Region 1 and Region 2

No changes to current regulations.

*Action: **Murphy** moved and **Lane** seconded the motion to approve the Region 1 and Region 2 Black Bear regulations as they currently read as recommended by the Department. Motion carried.*

**Black Bear - Region 3 and Region 4**

No changes to current regulations.

*Action: **Mulligan** moved and **Lane** seconded the motion to approve the Region 3 and Region 4 Black Bear regulations as they currently read as recommended by the Department. Motion carried.*

**Black Bear - Region 5**

BMU 510: Fall season opener changed from Oct. 26 to Oct. 1; In deer/elk HD 510 portion of BMU 510, the fall season female sub-quota of 1 with no total quota. In deer/elk HD 502 portion of BMU 510, there will be no quota in spring or fall seasons.

BMU 520: In deer/elk HD 520 and 560 portion of BMU 520, female sub-quota of 8 in spring and 5 in the fall with no overall quota in spring or fall. In deer/elk HD's 502 and 575 portion of BMU 520, no quota in spring or fall

*Action: **Walker** moved and **Mulligan** seconded the motion to approve the changes to the Region 5 Black Bear regulations as recommended by the Department. Motion carried.*

**Black Bear - Region 6 and Region 7**

No changes to current regulations.

*Action: **Brenden** moved and **Lane** seconded the motion to approve the Region 6 and Region 7 Black Bear regulations as the currently read as recommended by the Department. Motion carried.*

**Mountain Lions**

**Hammond** said the Department did not recommend any season structure changes. However there are suggested additions recommended by the Enforcement Division.

1. Permission required to release dogs or chase lions on private land.
2. Non-residents may not take bobcats
3. HD 150 & 151 are open to the use of dogs for the entire season (which is concurrent with the Deer/Elk season for these districts).
4. Lynx are listed as a threatened species and there is no open season. It is a violation of both state and federal law to chase lynx with dogs.

*Action: **Walker** moved and **Mulligan** seconded the motion to approve the additions to the Mountain Lion regulations as recommended by the Department. Motion carried.*

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**Hammond** said he wanted to discuss two additional boundary changes in Region 3 which would enlarge three existing areas. He asked **Alt** to review the information for the Commissioners. **Alt** said the first one is the Wall Creek permit only hunting area. Because of the tall game-proof fence that was erected, the Department is proposing an expansion of that permit only area to minimize the kind of problems that we try to eliminate by putting in place the permit only hunting area on the game range in the first place. The second boundary change is between HD313 and HD314 elk and deer hunting districts. Currently, HD314 goes from Livingston to the Park on the west side of the Yellowstone, and the proposal is to take everything south of Tom Minor Basin in HD314 and put it into HD 313. The third change is an expansion of the Townsend weapons restriction area to include part of the area that was restricted to archery only antelope hunting to make it one area simplification again.

*Action: **Mulligan** moved and **Walker** seconded the motion to approve the proposed boundary changes as recommended by the Department. Motion carried.*

#### **16. 2004 & 2005 Upland Game Bird Seasons - including Spring and Fall Turkey - Tentative.**

##### Turkey - Region 1

1. Flathead Valley Turkey Hunting Unit: Eliminates permits and proposes an over-the-counter fall either-sex hunting season.
2. Lincoln County Turkey Hunt: Increase fall ES permits from 40 to 150.

*Action: **Murphy** moved and **Lane** seconded the motion to approve the changes to the Region 1 Turkey regulations as recommended by the Department. Motion carried.*

##### Turkey - Region 2

1. Ravalli County: During the spring season, increase male quota to 150 permits. Also, provide unlimited spring male permits for youth (12 – 14 year olds). During the fall season, provide 150 ES permits west of the Bitterroot and north of Tin Cup Creek.
2. Missoula County: Provide 30 spring gobbler permits, with an additional 5 youth permits for a total of 35 permits.
3. West Clark Fork Area: During the fall season, increase quota to 150 permits.

*Action: **Murphy** moved and **Mulligan** seconded the motion to approve the changes to the current Region 2 Turkey regulations as recommended by the Department. Motion carried.*

##### Turkey - Region 3

1. Create a Park County (portion of Region 3) turkey area, utilizing limited permits with an initial quota of 20 males – only permits during the spring season, and 30 ES permits during the fall.
2. Create 2 youth permits in both the spring and fall seasons for the Park County turkey hunt area.
3. Create 2 youth permits in both the spring and fall seasons for the Administrative Region 3 turkey hunt area.

*Action: **Mulligan** moved and **Murphy** seconded the motion to approve the changes to the current Region 3 Turkey regulations as recommended by the Department. Motion carried.*

##### Turkey - Region 4

1. Eliminate Chouteau County from the spring turkey general hunting area and map.

*Action: **Mulligan** moved and **Walker** seconded the motion to approve the changes to the current Region 4 "eliminate region 4 portion of"  
Motion carried.*

##### Turkey - Region 5 and Region 6

No recommended changes to current regulations.

*Action: **Walker** moved and **Brenden** seconded the motion to approve the Region 5 and Region 6 Turkey regulations as they currently read as recommended by the Department. Motion carried.*

Turkey - Region 7

Region wide: Proposal would provide two turkey tags each year in all of Region 7, and could provide opportunities to harvest two turkeys in the spring, or two turkeys in the fall, or one turkey in the spring and one turkey in the fall.

*Action: Walker moved and Brenden seconded the motion to approve the changes to the current Region 7 Turkey regulations as recommended by the Department. Motion carried.*

*Action: Brenden moved and Mulligan seconded the motion to extend seasons on Sharptail Grouse, Hungarian Partridge and Ringneck Pheasant through January 1. Motion carried.*

**LAW ENFORCEMENT RECOMMENDATIONS**

**Hammond** then introduced proposed recommendation regarding law enforcement issues.

1. To make two-way communication regulation more inclusive: "Two-way communication may not be used to hunt big game animals, or upland birds, migratory birds or furbearers as defined.
2. Define "shotgun" for use in Weapons Restriction Areas: defined as "a shouldered, breech-loaded firearm with a smooth bore, designed to fire shot or rifled slugs."
3. Clarify "sabot": Defined as "any projectile that uses an attached device that: acts as a gas check; acts as a friction reduction device; or, allows a smaller caliber projectile to be fired from a larger caliber weapon."
4. A hunting license may not be issued to a person who is born after January 1, 1985, unless the person authorized to issue the license determines proof of completion of a Montana hunter safety and education course or a hunter safety course in any other state or province.

Discussion regarding the definition of "shotgun" in Weapons Restricted Areas resulted in the wording change from "breech loaded firearm" to "breech loaded or "muzzle loaded firearm". Discussion also resulted in removing the responsibility of determining proof of hunter safety and education courses from the authorized license agent to the hunter. This wording needs to also be reflected in the Hunter Education Requirement section in all hunting regulations. Discussion ensued regarding the ineligibility of a person born after January 1, 1985 to purchase a license without proof of hunter education or hunter safety courses. Herbert said he would check on this to see if the date is supposed to change from year to year or if it is a static date of 1985.

This statement should also replace the **Hunter Education Requirement** section in all hunting regulations: *"A hunting license may not be issued to a person who is born after January 1, 1985, unless the person authorized to issue the license determines proof of completion of a Montana hunter safety and education course or a hunter safety course in any other state or province."*

This statement will hereafter reflect the above wording change of *"A hunting license may not be issued to a person who is born after January 1, 1985, unless that person provides proof of completion of a Montana hunter safety and education course or a hunter safety course in any other state or province"*.

Standard **State Land Use** statement needs to be included in all hunting regulations: "Persons who are licensed to hunt, fish, or trap are not required to obtain a recreational use license for use of legally accessible state trust land for hunting, fishing, and trapping purposes."

**Mulligan** asked how the public will be notified if there will no longer be any state land use permit. For purposes other than hunting, fishing, or trapping persons would be required to obtain a permit.

**Hagener** said it would be in DNRC's regulations. Mulligan requested the Department provide this information to the license agents so they know how to respond since it is no longer on the ALS System. He asked if DNRC knows it will not be on the ALS System. Kropp stated a meeting is scheduled to work on the MOU at which time this information could be disseminated to DNRC.

Include in the turkey regulations under **Avoid Violations of the Law**: "It is illegal to shoot any game bird on, from or across any public thoroughfare, or the shoulder, berm, or borrow-pit of any public highway, and/or motor/driven conveyance."

**Walker** asked why furbearers were included in the two-way communication restriction. **Kropp** said it is in there for bobcats, which are included in the definition of furbearers. This gets back to hunting bobcats with hounds. When asked if the language could read "bobcats" rather than "furbearers", he replied wildlife definitions must be all-inclusive in their category and not broken up. Mulligan suggested the language be "hunting or trapping of bobcats".

*Action: **Walker** moved and Brenden seconded the motion to strike "furbearers" in #1.*

*Discussion on Motion: **Kropp** explained the two-way restriction is only for pursuit of animals.*

*Action on Motion: Walker withdrew his motion.*

**Lane** asked if a license was purchased in a prior year, is that proof enough of completion of the hunters education course. **Kropp** replied that a person has to be able to show proof of hunter education and previous licenses are not proof enough. Kropp said that once a person is in the system as showing proof of completion of hunter education, it is fine.

*Action: **Lane** moved and **Walker** seconded the motion to approve the enforcement recommendations with the noted changes to add "breech loaded or muzzle loaded" to the shotgun definition, and to reflect the wording change to "A hunting license may not be issued to a person who is born after January 1, 1985, unless that person provides proof of completion of a Montana hunter safety and education course or a hunter safety course in any other state or province". Motion carried.*

**17. Game Damage Permit Authorizations - Tentative.** Herbert asked that the Commission adopt the Game Damage antlerless deer and antlerless elk and doe/fawn antelope licenses as recommended by the Department. Those quantities are similar to 2003.

*Action: **Walker** moved and **Murphy** seconded the motion to approve the Game Damage Permit recommendations as proposed by the Department Motion carried.*

**18. Teton Spring Creek Preserve - Final.** Herbert said the action being sought is to approve the boundary changes relative to the landowners who petitioned for removal from the preserve area. He pointed out that when lands are removed from preserves, they default to a general season format so

whatever is in place for a hunting season regulation becomes operational as those lands are removed from a preserve.

**Mike Aderhold, FWP Region 4 Supervisor**, said two landowners, Keith VanSetten and Pat Saylor, have petitioned to withdraw their property from the Preserve. The rulemaking process is still underway. A public hearing was held in Choteau on August 21, 2003, as well as a 40-day public comment period. The Montana Environmental Policy Act process also involved public notice. He said 52 comments were received - none suggesting any biological reason to continue this preserve. He added the Teton County Commissioners also endorsed the withdrawal.

Otis and Sylvia Bryan and Scarlett Schock have asked to withdraw their properties as well. Aderhold said the government entities who own land on the bench (the City of Choteau, Teton County, and the School Trust Division of the Department of Natural Resources) are also willing to withdraw their land in order to create a single contiguous preserve.

Aderhold said that a group of archers wish this area to become an archery-only area, and they feel with an extended season that they could control the deer population. Residents in the area have very strong concerns about the safety of gun hunting in this area. In talking with them, Aderhold believes that these folks would like this area restricted to archery. He said FWP has set a precedent with 23 other "special weapons restrictions areas". He added that there is nothing requiring the employment of all of the various weapons allowed under special weapons restrictions definitions - landowners have the choice to allow use of one or more of these hunting instruments, to open or close their lands, and to put other constraints and access provisions on their land.

*Action: **Lane** moved and **Murphy** seconded the motion to grant the withdrawal of the property from the Teton Spring Creek Preserve as petitioned by Pat Saylor, Keith Van Setten, Otis and Sylvia Bryan, Scarlet Schock, and to drop the isolated tracts of land managed by the City of Choteau, the Teton County Commission, and the Department of Natural Resources and Conservation that remain on the preserve, on the benchland, and out of the Teton Valley, so that what remains is a contiguous Teton Spring Creek Bird Preserve. Motion carried.*

**Hammond** read a letter from the Montana Bowhunters Association, signed by Charlie Johnson, president of the Association, recommending the use of archery within the Preserve boundaries as it is now. Hammond asked **Graham Taylor, FWP Region 4 Wildlife Manager**, said this proposal is a good idea; the emphasis being on attempting to obtain, within the new Preserve boundary, as much antlerless deer harvest as possible, if the bow hunters feel they can meet the needs.

**Brenden** asked why a damage hunt could not be conducted at the Preserve. **Taylor** said a damage hunt was attempted last year, however it was with firearms, and that was a failure because firearms cannot be used in the Preserve. **Mulligan** clarified that this covers the ground within the Preserve as redefined.

Charlie Johnson, Montana Bowhunters Association, said currently there is no incentive for Bowhunters to go into this Preserve to harvest deer as few people know about it. He said the regulations are confusing.

**Walker** asked if the members would be interested if a damage hunt was put in place for archery this year, to which Johnson replied he felt they would. **Mulligan** asked if this would be a damage hunt in the old preserve, or in the new preserve as reduced, and if the 5 tags would be used within the newly defined preserve or within the present boundaries. **Walker** said we are talking about the Preserve as presently voted on, but not the 5-tags.

**Taylor** said a damage hunt would have to occur in the existing preserve, as it is now, because the rule making process needs to occur to redefine the boundaries. A damage hunt, with archery as the weapon, would happen after the termination of the existing current hunt, so January would be the earliest timeframe available.

**Taylor** reminded the Commission that FWP is dealing with private landowners so it cannot be assumed that access will be granted to any of this private land - it is still the landowners decision if he/she wants to participate. **Taylor** verified that the Commission desires a game damage hunt in January of 2004 in the old preserve.

**Herbert** clarified that this recommendation is to initiate, with collaboration of that district's Commissioner, Graham Taylor, and the Region, an antlerless damage hunt beginning in January, using whatever combination of licenses the Commission sees fit, plus game damage permits in January after termination of the regular season. The proposal to withdraw lands from Preserve status will take effect in 2005. He said a recommendation is necessary to include the Montana Bow Hunters' proposal for those lands remaining in preserve status next year to have those liberal archery regulations in place. Action has already taken place on the proposed special weapons restriction provision as a tentative for 2005.

*Action: **Lane** moved and **Walker** seconded the motion to amend the area within the proposed preserve to liberalize the deer season to an unlimited number of permits. Motion carried.*

**Walker** said the area that falls outside of the preserve will be addressed in the tentative rule making process after the Secretary of State signs off on the rule.

### **18.1 Teton Spring Creek Preserve Weapons Restriction Area Presentation.**

**John Murnane**, adjacent landowner to the Teton Spring Creek Bird Preserve, appeared before the Commission to express concern over the restricted weapons restrictions imposed on the Teton Spring Creek Preserve. He said he (they) fully understand the need for deer harvest, and he has supported the withdrawal of land from the Preserve by the landowner's involved. What he is concerned about is the firearms listed as acceptable under "restricted firearms". He said the restricted weapons listed provide the same hazards as high powered rifles, due to topography, vegetation, and cover in that area. Local weapons experts also oppose those weapons designated as restricted weapons. Murnane said over 50% of the households affected by these changes have signed a petition opposing firearms as the solution. He said the Teton County Commissioners support the withdrawal of land from the Preserve by the landowners, but they, too, recognize the safety concern. He added that members of the Choteau City Council and the Principal of the school also oppose the use of weapons. He said other solutions need to be explored; there are moral and professional responsibilities not to endanger human life under any circumstance.

**Lane** said he approved this proposal as a tentative to allow the public every tool possible to do something about the deer in that area. He hopes to encourage community members to sit down with the landowners and discuss the situation, then contact the Commissioners with their suggestions. **Lane** said he is committed to this, and will guarantee that when a community-based decision is presented, he will support it.

Murnane said he has put together a proposal that would allow a direct reduction and more aggressive harvest, would allow sportsmen to have an expanded season, and it will not threaten the safety of residents. He asks that the area remain archery-only.

**Mulligan** noted the similarity of other weapons restricted areas relative to topography, housing, the danger, and said there are areas consisting of the same configuration where there are no restrictions at all.

Senator Jerry Black, speaking on behalf of himself and Representative Larry Lehman, said they support the landowners' right to petition out of the Preserve, and they support the landowners in their desire to not allow the use of firearms in the Preserve. The landowners request a buffer zone for protection, and would like to see the area restricted to archery hunting only. He stated that if the people in that area feel restricted firearms restrictions pose a safety threat, then in reality it is a threat, and should be handled as such.

**19. 2004 Annual Rule Regarding Prairie Dog Shooting - Tentative. Heidi Youmans, FWP Wildlife Division Small Game Bureau Chief,** said the proposed 2004 Prairie Dog Annual Rule regulating shooting is identical to the rule adopted in 2002 and 2003. Youmans clarified that this is an annual rule and that the Translocation Rule is permanent. She said this rule has been very well accepted.

*Action: **Mulligan** moved and **Lane** seconded the motion to approve the adoption of the proposed 2004 Annual Rule regulating prairie dog shooting as recommended by the Department. Four in favor - one opposed (Brenden). Motion carried.*

**20. Thompson River Co-Gen, LLC, Project - Final. Dan Vincent, FWP Region 1 Supervisor,** said this proposal is for FWP to grant a 1,400 foot x 60 foot power line easement across the MT Silcox Wildlife Management Area for construction of a transmission line for the delivery of electrical power from the Thompson River Co-Gen Project to Northwestern Energy for Montana customers. In exchange, The Thompson River Co-Gen Project will provide weed control at a value equal to the fair market value of the easement.

*Action: **Walker** moved and **Murphy** seconded the motion to approve the proposed Thompson River Co-Gen, LLC, power line easement as recommended by the Department. Motion carried.*

**21. Fishing Access Sites - Informational. Chris Hunter, FWP Fisheries Division Administrator,** briefly described seven potential Fishing Access Sites that the Fisheries Division will investigate over the next year for possible incorporation into the Department.

Cinnabar Foundation Property - this proposal consists of a 5 acre undeveloped site on the Yellowstone River downstream from the Grey Owl FAS. The Cinnabar Foundation has proposed donating this piece of property to FWP.

CW Patrick Property – this property consists of 110 acres along the Yellowstone River between the Grey Owl FAS and Emigrant FAS. Acquisition of this property would provide anglers several miles of river access.

#### Region 4

Lewis Property – this site consists of 176 acres on the Sun River near Vaughn. This site has good access to both sides of the river. The south side has a gravel pit, which attracts waterfowl. The preference would be for another party to purchase a portion of the land and work in partnership in its management. The Gun Dog Club would like to use the site, but they want FWP to buy the property, and allow them would use part of it. **Walker** asked if it would work as a youth fishing pond to which **Hunter** replied it very well might.

Brevig Property – this property is located on the lower reach of Big Spring Creek where no public access is available. The closest upstream site is the Hruska FAS located 6 miles upstream. The water runs swiftly and is a tremendous place to fish. Big Spring Creek is too small for float fishing and too large, deep and fast for wading.

#### Region 5

Indian Fort – this site is a 30-acre parcel located on the Yellowstone River adjoining the Indian Fort FAS that FWP already owns near Reed Point. The concrete boat ramp at Indian Fort FAS has been washed away due to the swift and deep water that runs through that location. Funding that has been allocated to replace the washed away ramp would be used to construct a new ramp on the proposed site.

Lockwood Pond – this 4-acre pond is located in the community of Lockwood and is an existing gravel pit that is preparing to close operations. This pond would provide a good opportunity for a family fishing pond.

#### Region 6

Snowden Bridge – this 10-acre site is located on the lower Missouri River near the North Dakota border 7.5 miles from the confluence with the Yellowstone River on School Trust Land. DNRC has agreed to lease or provide an easement to FWP for management of this parcel. Culbertson Bridge FAS is located 31 miles upstream.

**22. Proposed Land Use Change at Lewis & Clark FAS - Final.** Hunter said the Tribal Municipal, Rural and Industrial Project (MR&I) has proposed purchasing 3.28 acres within the Lewis & Clark FAS to place a portion of their intake water system. The request is for property in an area of the FAS where no recreational improvements have been made. No comments were received as a result of the comment period. **Brenden** said this project will benefit many communities in northeast Montana.

*Action: **Brenden** moved and **Lane** seconded the motion to approve the sale of 3.28 acres (not grant an easement) of FWP land within the Lewis & Clark FAS to Fort Peck Tribes for the Tribal Municipal, Rural and Industrial Project (MT&I) which will provide water to municipal, rural, and industrial users. Motion carried.*

**23. Alberton Gorge Land Exchange - Informational. Mack Long, FWP Region 2 Supervisor,** said Alberton Gorge is a section of the Clark Fork River, and is a highly utilized area. It is a pristine setting with the old Mullan Trail located above it. In spite of the heavy usage, there are still many opportunities to use this without overcrowding. Water conditions are always conducive to floating and angling.

The purpose of this exchange is to facilitate the conveyance of the Alberton Gorge River Corridor into public ownership to preserve its natural value, to improve fishing access along the Clark Fork River, and to consolidate land ownership to improve land management.

Negotiations on this land exchange began several years ago, and have been complex in nature. Support has been favorable. The proposal is for FWP to transfer four tracts to the Forest Service. Those are the Park Lake FAS, the Tizer Lakes FAS, Natural Bridge State Park, and Frank Lake FAS. The River Network proposes to acquire three tracts, then reconvey them to generate money to purchase Alberton Gorge from NorthWestern Energy. An Environmental Assessment between the Forest Service and FWP is to be released within the next week or ten days.

**Brenden** said he would like to visit the site. **Mulligan** asked if there is a deadline to which he was told December 31, 2004 was the anticipated date.

*Action: The Commissioners unanimously agreed that FWP should pursue this acquisition.*

**24. Lake Five FAS Acquisition - Tentative. Hunter** said this item was only just recently brought to FWP for consideration, therefore not listed on today's agenda. The Commission was not provided any background information due to the last minute nature of this proposal. Hunter said this FAS will ultimately go to the Fish, Wildlife & Parks Foundation.

**Dan Vincent, FWP Region 1 Supervisor,** provided details surrounding the proposal. He stated that Lake Five is comprised of 230 acres, and is located near West Glacier. It is a very popular fishing lake, reflecting 1,000 - 2,000 angler days annually, however, the only access to the lake is through a private marina.

The Ridenour family, original property owners on the lake, recently approached FWP stating they were interested in selling some acreage for use as a public access area. They have identified two areas that would provide parking and boat launching opportunities.

Coincidentally, a woman from Colorado, Elizabeth Taylor, approached FWP wishing to purchase a fishing access site in western Montana in memory of her deceased son, Paul, a retired USFS employee, and gift it to Fish, Wildlife & Parks in his name. The dollar figure Ms. Taylor had in mind was between \$400,000-\$500,000. The plan would be for her to purchase the property and contribute to a trust fund to partially offset maintenance costs. Federal or state funding would be required for facility construction. Ms. Taylor grew up in the Lake Five area and went to school with the Ridenours.

**Vincent** said when he spoke with the attorney representing Ms. Taylor, he expressed concern regarding operational costs. Ms. Taylor agreed to provide \$50,000 toward the FWP Foundation Trust, from which the interest could be used to offset operational and maintenance costs. The value of the

property could also be matched with boat-in-lieu dollars that the Department has available to pay for some of the capitol developments. **Vincent** said her attorney informed him that they would like to give a portion of the money this year for tax purposes.

The property in this area is extremely expensive. **Vincent** said this site is worth \$400,000 to \$475,000, however there has not been an appraisal done as of yet. He said the tentative figure of \$300,000 has been discussed and tentatively accepted, with the remaining portion gifted to FWP for tax purposes.

Discussion ensued relative to tax incentives, and conveyances. Spence Hegstad, FWP Foundation Executive Director, said this trust could be handled two ways. He said the money will pass through the Foundation. The Department can go through the public process and purchase it, then the Foundation would fund the acquisition. The other option is for the Foundation to purchase the site, go through the public process, then gift it to the Department.

*Action: The Commissioners unanimously agreed that FWP should pursue this acquisition*

**25. Catch and Release Regulation on a Portion of Big Spring Creek - Final.** **Hunter** explained that there has been a PCB issue on Big Spring Creek for quite some time. Originally, it was suspected that the fish food utilized at the hatchery was the cause of the problem, but recently it was discovered that the source is most likely the paint that was used on the raceways of the fish hatchery, used due to its effectiveness in reducing the growth of algae. The paint, which has a high level of PCBs, has chipped off and washed into the stream and gotten into the food chain. Fish raised in the hatchery have very low levels of PCB, but fish in the stream have had higher levels for several years.

Fish tissue tested last week indicated a very high level of PCBs and should not be consumed. It has become a serious public health issue. He said the levels are low, however, they are still twice those acceptable for consumption. He added that this situation has been in the stream for years. **Hunter** said it is recommended that the stream be designated strictly catch and release to the Ash Street Bridge, and possibly further as recent tests indicate fish are infected further downstream as well. **Murphy** questioned whether the fish should be removed when caught rather than released back into the water.

**Hagener** said since this is a public health issue, and the public is aware, action needs to be taken quickly.

*Action: **Lane** moved and **Walker** seconded the motion to approve the catch and release regulation on Big Spring Creek as recommended by the Department. Motion carried.*

*\*\*During a subsequent Commission conference call on December 19, 2003, a motion was passed to extend the catch and release area downstream to the Highway 191 Bridge.\*\**

**26. River Recreation Policy Update - Informational.** **Charlie Sperry, FWP River Recreation Management Specialist**, said the results of the public comment period have been summarized in a report categorized by individual meetings. This summary is also posted on the FWP Website. He thanked Walker and Mulligan for their attendance at the meetings. Seven meetings were held with one hundred twenty five people registered, and twenty-three letters were submitted.

**Walker** suggested that the Commission evaluate the report at the January, 2004 meeting after allowing time to review the information. He stated that the processes used for making recommendations for the individual rivers will be diverse, and very critical components to river management.

**Sperry** said the River Recreation Advisory Council was given permission to reconvene, therefore another meeting will be held in January. After that meeting, the information will be made available to the public in the form of minutes from the Council.

**27. Public Opportunity to Speak on Issues Not Discussed at this Meeting.** No comments.

Meeting adjourned at 6:46.

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**Dan Walker, Chairman**

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**M. Jeff Hagener, Director**